

JAMES A. SAVILLE, JR.
JUSTIN M. HEILIG
HILL RIVKINS LLP
45 Broadway, Suite 1500
New York, NY 10006
Tel: (212) 669-0600
Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CARBAMERICAS, INC.

Plaintiff,

- against -

AMERICAN PRESIDENT LINES, LTD.
and APL CO. PTE LTD,

Defendants.

18 Civ. 4425

COMPLAINT

Plaintiff Carbamericas, Inc. ("Carbamericas"), by and through its attorneys Hill Rivkins LLP, as and for its Complaint against the above-named defendants, alleges upon information and belief as follows:

1. At all times relevant hereto, Carbamericas was and now is a corporation organized and existing under Florida law with an office and principal place of business at 800 W Cypress Creek Road, Suite 100, Ft. Lauderdale, Florida 33309 and was the owner and consignee of the shipments that are the subject of this Complaint.
2. At all times relevant hereto, defendant American President Lines, Ltd. was and now is a corporation organized and existing under Delaware law with an office

and principal place of business at One Meadowlands Plaza, Suite 200, East Rutherford, New Jersey 07074.

3. At all times relevant hereto, defendant APL Co. Pte Ltd. was and now is a corporation organized and existing under foreign law with an office and place of business at One Meadowlands Plaza, Suite 200, East Rutherford, New Jersey 07074.

4. At all times relevant hereto, defendants American President Lines, Ltd. and APL Co. Pte Ltd. (collectively “APL”) were and now are engaged in business as common carriers of goods by water for hire, issuing bills of lading and/or sea waybills for the common carriage of goods aboard ocean-going vessels.

5. This action is comprised of admiralty and maritime claims within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure and this Honorable Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1333.

6. The U.S. District Court for the Southern District of New York is the proper venue for this action by virtue of the forum-selection clause contained in the operative bills of lading, sea waybills, terms and conditions of service, and/or the contracts of carriage for the shipment at issue.

7. In or about January 2017, there was delivered to APL a shipment of three containers of fresh mangoes in good order and condition and suitable in every respect for the intended transportation, which APL received, accepted and agreed to transport for certain consideration aboard the M.V. ALIOTH and M.V. SAINT NIKOLAOS pursuant to APL waybills 902296755, 902296947 and 902296948.

8. APL failed to re-deliver the subject shipment in the same good order and condition as when they were received.
9. By reasons of the premises, APL breached and violated its duties and obligations as a common carrier and bailee of the cargo, was negligent and careless in its handling of the subject shipment, and was otherwise at fault.
10. Plaintiff was the owner and consignee of the subject shipment and brings this action on its own behalf and on behalf of all parties who are or may become interested in the subject shipment, as their respective interests may ultimately appears, and Plaintiff is entitled to maintain this action.
11. Plaintiff has performed all duties, obligations, and conditions precedent to be performed on its part.
12. By reason of the premises, Plaintiff has sustained damages as nearly as same can now be estimated, no part of which has been paid, although duly demanded, in the total amount of \$43,587.63, plus interest, costs and reasonable attorneys' fees.

WHEREFORE, Plaintiff Carbamericas prays:

- (i) that process in due form of law according to the practice of this Court may issue against the Defendants, citing them to appear and answer the foregoing;
- (ii) that, if the Defendants cannot be found within this District, all of their property within this District be attached in the sum set forth in this Complaint, with interest and costs;

(iii) that a decree may be entered in favor of Plaintiff against Defendants, jointly and severally, in the amount of Plaintiff's damages, together with pre-judgment interest, costs, and reasonable attorneys' fees; and

(iv) for such further and other relief as this Honorable Court may deem just and proper.

Dated: New York, New York
May 18, 2018

HILL RIVKINS LLP, *Attorneys for*
Plaintiff Carbamericas, Inc.

By: _____

James A. Saville, Jr.
Justin M. Heilig
45 Broadway, Suite 1500
New York, NY 10006
Tel: (212) 669-0600
Fax: (212) 669-0698